

Remarks

This amendment is being submitted in response to the Final Office Action mailed March 14, 2003. A response to the Office Action is due June 14, 2003. This amendment is being submitted **WITHIN TWO MONTHS** of the mailing date of the Final Office Action.

Claims 23-49 were pending. By way of this response, claim 43 has been cancelled. Accordingly, claims 23-42 and 44-49 remain pending.

As a preliminary matter, applicant acknowledges that claims 23-37 and 46-49 are allowable. The only outstanding rejections are of claims 40 and 43 under 35 U.S.C. § 112, second paragraph and of claims 38-44 under the judicially created doctrine of obviousness-type double patenting. Applicant addresses those rejections herein.

Rejections Under 35 U.S.C. § 112, Second Paragraph

Claims 40 and 43 have been rejected under 35 U.S.C. § 112, second paragraph as allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Office Action indicates that claims 40 and 43 are substantial duplicates.

As indicated above, applicant has cancelled claim 43. Accordingly, the rejection is rendered moot.

Obviousness-type Double Patenting

Claims 38-44 have been provisionally rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-8 of copending application Serial No. 09/539,914.

Applicant has enclosed with this reply an executed Terminal Disclaimer to overcome the obviousness-type double patenting rejection.

Claim Objections

Claim 45 has been objected to as being dependent upon a rejected base claim (i.e., claim 38).

As indicated above, applicant is submitting a Terminal Disclaimer to overcome the rejection of claim 38.

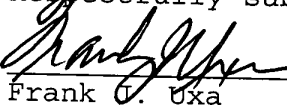
In view of the above, applicant submits that the rejection to claim 38 has been overcome, and accordingly, claim 45 is no longer dependent upon a rejected base claim, and the objection has been overcome.

In addition, each of the present dependent claims is separately patentable over the prior art. For example, none of the prior art disclose, teach, or even suggest the present compositions or methods including the additional feature or features recited in any of the present dependent claims. Therefore, applicant submits that each of the present claims is separately patentable over the prior art.

In conclusion, applicant has shown that the present claims satisfy the requirements of 35 U.S.C. § 112, and are not anticipated by and are unobvious from and patentable over the prior art under 35 U.S.C. §§ 102 and 103. Therefore, applicant submits that the present claims, that is claims 23-42 and 44-49 are allowable. Therefore, applicant requests the Examiner to pass the above-identified application to issuance at an early date. Should any matters remain unresolved, the Examiner is requested to call (collect) applicant's attorney at the telephone number given below.

Date: May 14, 2003

Respectfully submitted,



Frank G. Uxa  
Attorney for Applicant  
Registration No. 25,612  
4 Venture, Suite 300  
Irvine, California 92618  
(949) 450-1750  
(949) 450-1764 Facsimile